IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

PHIL BREDESEN, GOVERNOR OF THE STATE OF TENNESSEE v. TENNESSEE JUDICIAL SELECTION COMMISSION, ET AL.

No. M2006-02722-SC-RDM-CV - Filed - January 18, 2007

ORDER

At stake in this appeal is the method used to select the appellate judges of this state. My own nomination and eventual appointment as an associate justice is a part of the history of this litigation. The decision of this Court in this or any other case should be free from any possible bias or favor. As our Court of Appeals has observed, "[T]he preservation of the public's confidence in judicial neutrality requires not only that the judge be impartial in fact, but also that the judge be perceived to be impartial." Kinard v. Kinard, 986 S.W.2d 220, 228 (Tenn. Ct. App. 1998). Indeed, this Court has ruled that the test for recusal "is ultimately an objective one since the appearance of bias is as injurious to the integrity of the judicial system as actual bias." Davis v. Liberty Mut. Ins. Co., 38 S.W.3d 560, 565 (Tenn. 2001).

While I hold no preconceived opinions regarding the merits of the issues presented and have no reservations about exercising my duty under the law, it is my desire to avoid even the appearance of impropriety. To use a baseball analogy, a player who competes in the first game of a doubleheader, should not serve as an umpire in the second game. It just doesn't look right. For that reason, I must recuse myself from participation in the adjudication of the merits.

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GARY R. WADE, JUSTICE